

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ANTHONY GIACCHINO
319 GREENE AVENUE
APT 1B
BROOKLYN, NY 11238

Plaintiff,

v.

DEPARTMENT OF JUSTICE
950 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20530

Defendant.

Civil Action No. 19-2545

* * * * *

COMPLAINT

This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, et seq., as amended, seeking the production of agency records requested by the plaintiff Anthony Giacchino from the defendant Department of Justice (and its component entity).

JURISDICTION

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendant pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

VENUE

2. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391.

PARTIES

3. Plaintiff Anthony Giacchino (“Giacchino”) is a resident of the State of New York and is a U.S. citizen.

4. Defendant Department of Justice (“DOJ”) is an agency within the meaning of 5 U.S.C. § 552(f), and is in possession and/or control of the records requested by the plaintiff that are the subject of this action. DOJ controls – and consequently serves as the proper party defendant for litigation purposes for – the Federal Bureau of Investigation (“FBI”).

COUNT ONE (FBI)

5. The plaintiff, Giacchino, submitted a FOIA request to the FBI through its online portal on September 28, 2017.

6. The FOIA request sought copies of any and all video or film footage recorded by the FBI at the Fresh Kills Recovery Site on Staten Island, NY, after the September 11, 2011, terrorist attacks.

7. By letter dated October 4, 2017, the FBI acknowledged receipt of the request and designated it as Request Number 1386014-000.

8. By letter dated May 16, 2018, the FBI issued a final response to Giacchino. The FBI provided Giacchino with a DVD. Deletions pursuant to Exemption 6 and Exemption 7(C) were applied.

9. By letter dated June 5, 2018, Giacchino timely filed an administrative appeal, challenging both the adequacy of the search and the appropriateness of the redactions.

10. By letter dated June 28, 2018, the DOJ’s Office of Information Policy (“OIP”) acknowledged receipt of the appeal and designated it as Appeal Number DOJ-AP-2018-006323.

11. By letter dated September 26, 2018, DOJ OIP upheld the adequacy of the FBI’s search and the appropriateness of the redactions.

12. Giacchino has exhausted all required administrative remedies and is statutorily entitled to seek judicial review.

WHEREFORE, plaintiff Anthony Giacchino prays that this Court:

- (1) Order the defendant federal agency to produce to the plaintiff copies of all non-exempt responsive records;
- (2) Award reasonable costs and attorney's fees as provided in 5 U.S.C. § 552(a)(4)(E) and/or 28 U.S.C. § 2412(d);
- (3) Expedite this action in every way pursuant to 28 U.S.C. § 1657(a); and
- (4) Grant such other relief as the Court may deem just and proper.

Date: August 23, 2019

Respectfully submitted,

/s/

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